



General Assembly

**Substitute Bill No. 5670**

February Session, 2006

\* \_\_\_\_\_ HB05670JUD \_\_\_\_\_ 041106 \_\_\_\_\_ \*

**AN ACT CONCERNING ENERGY RESOURCE MARKET DISRUPTION  
EMERGENCIES AND PRICE GOUGING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-234 of the 2006 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 (a) As used in this section:

5 (1) "Energy resource" shall include, but not be limited to, middle  
6 distillate, residual fuel oil, motor gasoline, propane, aviation gasoline  
7 and aviation turbine fuel, natural gas, electricity, coal and coal  
8 products, wood fuels and any other resource yielding energy;

9 (2) "Seller" shall include, but not be limited to, a supplier,  
10 wholesaler, distributor or retailer involved in the sale or distribution in  
11 this state of an energy resource;

12 [(3) "Abnormal market disruption" refers to any stress to an energy  
13 resource market resulting from weather conditions, acts of nature,  
14 failure or shortage of a source of energy, strike, civil disorder, war,  
15 national or local emergency, oil spill or other extraordinary adverse  
16 circumstance.]

17 (3) "Additional costs" means all replacement and transportation

18 costs and taxes incurred by a person within the chain of distribution;

19 (4) "Gross disparity" means an increase of more than fifteen per cent  
20 in the price of an energy resource;

21 (5) "Unconscionably excessive" means a price that represents a gross  
22 disparity between the price of an energy resource when compared to  
23 the highest price such energy resource was sold or offered for sale by  
24 the seller in the usual course of business during the seven days  
25 immediately prior to the declaration by the Governor of an energy  
26 resource market disruption emergency pursuant to subsection (e) of  
27 this section.

28 (b) No seller during any [period of abnormal market disruption]  
29 energy resource market disruption emergency declared by the  
30 Governor pursuant to subsection (e) of this section, or during any  
31 period in which [an imminent abnormal market disruption] such  
32 emergency is reasonably anticipated shall sell or offer to sell an energy  
33 resource for an amount that represents an unconscionably excessive  
34 price.

35 (c) Evidence that (1) the amount charged represents a gross  
36 disparity between the price of an energy resource that was the subject  
37 of the transaction and the price at which such energy resource was  
38 sold or offered for sale by the seller in the usual course of business  
39 immediately prior to [(A) the onset of an abnormal market disruption,  
40 or (B)] an energy resource market disruption emergency declared by  
41 the Governor pursuant to subsection (e) of this section, or any period  
42 in which [an imminent abnormal market disruption] such emergency  
43 is reasonably anticipated, and (2) the amount charged by the seller was  
44 not attributable to additional costs incurred by the seller in connection  
45 with the sale of such product, shall constitute prima facie evidence that  
46 a price is unconscionably excessive.

47 (d) This section shall not be construed to limit the ability of the  
48 Commissioner of Consumer Protection or the courts to establish  
49 certain acts or practices as unfair or unconscionable in the absence of

50 [abnormal market disruptions] an energy resource market disruption  
51 emergency declared by the Governor pursuant to subsection (e) of this  
52 section.

53 (e) In the event of a state-wide or regional shortage or threatened  
54 shortage of an energy resource due to an abnormal market disruption  
55 resulting from a natural disaster, weather conditions, acts of nature,  
56 strike, civil disorder, war, national or local emergency or other  
57 extraordinary adverse circumstance, the Governor may proclaim that  
58 an energy resource market disruption emergency exists. Upon the  
59 declaration of such emergency, the Governor may in connection  
60 therewith issue orders designating an energy resource to be in short  
61 supply or in danger of becoming in short supply in the state or in a  
62 specific region of the state and imposing price restrictions or rationing  
63 with respect thereto. Prior to the issuance of such an order, the  
64 Governor shall make written findings that there is an abnormal market  
65 disruption, that the energy resource is in short supply or is in danger  
66 of becoming in short supply due to such disruption, that the energy  
67 resource is essential to the health, safety and welfare of the people of  
68 the state, and that the imposition of price restrictions on the energy  
69 resource or rationing of such resource is necessary to assure the health,  
70 safety and welfare of the people of the state.

71 (f) Any proclamation or order issued pursuant to this section shall  
72 become effective upon its filing in the office of the Secretary of the  
73 State and with the clerks of the Senate and the House of  
74 Representatives. Such proclamation or order shall be published in full  
75 at least once in a newspaper having general circulation in each county,  
76 provided failure to publish shall not impair the validity of such  
77 proclamation or order. Unless disapproved in accordance with the  
78 provisions of subsection (g) of this section, any proclamation or order  
79 shall remain in effect until the Governor proclaims an end to the  
80 emergency or until ninety days after the date of the proclamation of  
81 the emergency, whichever occurs first.

82 (g) Any proclamation or order issued pursuant to this section may

83 be disapproved by a majority vote of each house of the General  
 84 Assembly. Any such disapproval shall become effective upon filing  
 85 notice of such action with the office of the Secretary of the State.

86 (h) Any natural person, trade association, corporation or other  
 87 entity may register with the Commissioner of Consumer Protection as  
 88 an agent for the purpose of being notified by said commissioner or  
 89 said commissioner's agent in the event the Governor declares an  
 90 energy resource market disruption emergency pursuant to subsection  
 91 (e) of this section. Such natural person, trade association, corporation  
 92 or other entity shall be notified of such emergency by said  
 93 commissioner or said commissioner's agent in an expeditious manner  
 94 when the Governor declares an energy resource market disruption  
 95 emergency.

96 (i) A violation of the provisions of subsection (b) of this section shall  
 97 be deemed an unfair or deceptive trade act or practice under  
 98 subsection (a) of section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	42-234

**GL**            *Joint Favorable Subst.*

**JUD**           *Joint Favorable*